

## JONES DAY

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March 15, 2013

### VIA ELECTRONIC MAIL

The Honorable Paul A. Engelmayer  
United States District Court  
Southern District of New York  
40 Foley Square  
New York, New York 10007

**MEMO ENDORSED**

<b>USDC SDNY</b>
<b>DOCUMENT</b>
<b>ELECTRONICALLY FILED</b>
<b>DOC #:</b>
<b>DATE FILED:</b> 13/15/13

Re: Ogbon v. Beneficial Credit Servs., Inc., et al., 10 Civ. 3760 (S.D.N.Y.)

Dear Judge Engelmayer:

On behalf of defendants Experian Information Solutions, Inc. and Trans Union, LLC ("collectively, "Defendants"), we write to respectfully request that this Court (1) strike all papers improperly filed by Plaintiff on March 13, 2013 in opposition to Defendants' summary judgment motion; and (2) order Plaintiff to re-file the opposition papers she originally filed on March 11, 2013. Defendants' request—which we do not make lightly—arises out of the latest of Plaintiff's repeated attempts to avoid compliance with this Court's rules and orders.

By way of background, on March 4, 2013, this Court granted Plaintiff's request for an extension of time to file her opposition to Defendants' summary judgment motion, with opposition papers due March 11, 2013, and reply papers due March 25. *See* Docket No. 151. On March 11, Plaintiff timely filed her papers, consisting of Plaintiff's declaration, memorandum of law, Local Rule 56.1 statement, and a 90-page composite Exhibit A. *See* Docket No. 152. On March 12, this Court entered a Notice of Deficient Docket Entry, ordering Plaintiff to re-file her papers separately, with each document receiving its own docket number.

When Plaintiff refilled her papers on March 13, however, she submitted materially different papers than those she originally filed on March 11: (1) Plaintiff's unsigned and undated declaration contains four new or altered paragraphs, *see* Docket No. 154, ¶¶ 13–16; (2) Plaintiff's declaration references previously unsubmitted Exhibits B through F, although none were attached to the declaration, *see id.* ¶¶ 14–15; (3) Plaintiff submitted a new unsigned and undated joint declaration from Plaintiff's daughters, *see* Docket No. 155; and (4) Plaintiff's memorandum of law contains new and different section headings, pagination, and argument. *See* Docket No. 153.

Plaintiff never sought leave to file these new, altered documents, nor did she offer any justification for doing so. Plaintiff had more than ample opportunity to prepare her opposition to

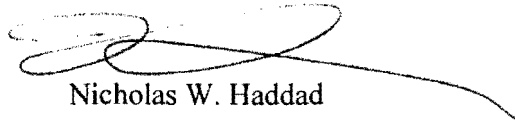
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Defendants' summary judgment motion, and her original deficient filing provides no basis for receiving a second bite of the apple. Such tactics—which unfairly prejudice Defendants' ability to prepare their reply brief and directly contravene this Court's scheduling order—should not be permitted.

Accordingly, Defendants respectfully request that this Court strike Plaintiff's March 13 opposition papers from the docket, and order Plaintiff to re-file the papers she originally submitted on March 11.

Respectfully submitted,



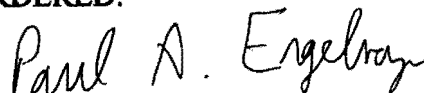
Nicholas W. Haddad

cc: Counsel of Record

The Clerk of Court is directed to strike the documents filed at docket numbers 153, 154, 155, and 156 from the record. Plaintiff's counsel is directed to properly re-file the documents found at docket number 152 — and no other documents — in exactly the form in which they were filed on March 11, 2013.

SO ORDERED:

3/15/13



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HON. PAUL A. ENGELMAYER  
UNITED STATES DISTRICT JUDGE